

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below.

Michelle L. Evans/

10/23/07

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL STOP PETITIONS  
Assistant Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

DECLARATION OF PAUL A. MENDONSA

Dear Sir:

I, Paul A. Mendonsa, having personal knowledge of the facts set forth herein, hereby declare as follows:

1. I am an Attorney of Record for the above-identified patent application entitled:  
"A SYSTEM AND METHOD FOR MEASURING PER NODE PACKET LOSS  
IN A WIRELESS NETWORK."
2. The Transmittal of New Application found on PAIR does list a mailing address  
for Lake Oswego, Oregon; however, the Customer Number box is checked in the  
Correspondence Address section and Customer Number 08791 is in the proper  
box. A copy of the transmittal is attached as Exhibit A.

3. The Declaration found on PAIR does not list a mailing address and directs all correspondence to Customer Number 08791. A copy of the Declaration is attached as Exhibit B.
4. The mailing address for Customer Number 08791 is 1279 Oakmead Parkway, Sunnyvale, CA 94085-4040.
5. On or around February 8, 2007, per PAIR, the Non-Final Office Action was mailed to Suite 101, 5285 S.W. Meadows Road, Lake Oswego, OR 97035. A copy of the transmittal and page one of the Office Action Summary are attached as Exhibit C.
6. On or around February 21, 2007, per PAIR, the Office Action was returned to the USPTO as undelivered. A copy of the returned transmittal page is attached as Exhibit D.
7. On or around October 9, 2007, per PAIR, the Notice of Abandonment was mailed to Suite 101, 5285 S.W. Meadows Road, Lake Oswego, OR 97035. A copy of the Notice of Abandonment is attached as Exhibit E.
8. On or around October 18, 2007, per PAIR, the Notice of Abandonment was returned as undelivered. A copy of the returned Notice of Abandonment is attached as Exhibit F.
9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with knowledge that willful, false statements and the like may jeopardize the validity of the application, or any patent resulting therefrom.

Respectfully submitted,

Date: October 23, 2007

/Paul A. Mendonsa/

Paul A. Mendonsa (Reg. No. 42,879)

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
(503) 439-8778

UTILITY PATENT APPLICATION TRANSMITTAL		Attorney Docket No. <u>42P18002</u>
First Inventor <u>Benjamin T. Metzler</u>		USPTO 10/7/16 45
Title <u>A System and Method for Measuring Per Node Packet Loss in a Wireless Network</u>		03945
Express Mail Label No. <u>EV325525872US</u>		111703

(Only for new nonprovisional applications under 37 CFR 1.53(b))

APPLICATION ELEMENTS		ADDRESS TO:
See MPEP chapter 600 concerning utility patent application contents		
<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) (Submit an original and a duplicate for fee processing)</p> <p>2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p>3. <input checked="" type="checkbox"/> Specification (preferred arrangement set forth below)</p> <ul style="list-style-type: none"> <li>- Descriptive title of the invention</li> <li>- Cross References to Related Applications</li> <li>- Statement Regarding Fed sponsored R &amp; D</li> <li>- Reference to sequence listing, a table, or a computer program listing appendix</li> <li>- Background of the Invention</li> <li>- Brief Summary of the Invention</li> <li>- Brief Description of the Drawings (if filed)</li> <li>- Detailed Description</li> <li>- Claim(s)</li> <li>- Abstract of the Disclosure</li> </ul> <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) [Total Sheets 2 ]</p> <p>5. Oath or Declaration (signed) [Total Pages 3 ]</p> <p>a. <input checked="" type="checkbox"/> Newly executed (original or copy)</p> <p>b. <input type="checkbox"/> Copy from a prior application (37 C.F.R. § 1.63(d)) (for continuation/divisional with Box 18 completed)</p> <ul style="list-style-type: none"> <li>i. <input type="checkbox"/> DELETION OF INVENTOR(S) Signed statement attached detailing Inventor(s) named in the prior application, see 37 CFR 1.63(c)(2) and 1.33(b)</li> </ul> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.66</p>		
<p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)</p> <p>a. <input type="checkbox"/> Computer Readable Form (CRF)</p> <p>b. Specification Sequence Listing on:           <ul style="list-style-type: none"> <li>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or</li> <li>ii. <input type="checkbox"/> paper</li> </ul> </p> <p>c. <input type="checkbox"/> Statements verifying identity of above copies</p>		
<p>9. <input checked="" type="checkbox"/> Assignment Papers (cover sheet &amp; document(s))</p> <p>10. <input type="checkbox"/> 37 C.F.R. § 3.73(b) Statement <input type="checkbox"/> Power of Attorney (when there is an assignee)</p> <p>11. <input type="checkbox"/> English Translation Document (if applicable)</p> <p>12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations</p> <p>13. <input type="checkbox"/> Preliminary Amendment <input type="checkbox"/> Application Amended to Reflect Claim of Priority</p> <p>14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) (Should be specifically itemized)</p> <p>15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed)</p> <p>16. <input type="checkbox"/> Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.</p> <p>17. <input checked="" type="checkbox"/> Other: <input type="checkbox"/> check in the amount of \$1244.00 <input type="checkbox"/> check in the amount of \$40.00</p>		

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

Continuation  Divisional  Continuation-in-part (CIP)

of prior application No: \_\_\_\_\_

Prior application Information: Examiner \_\_\_\_\_ Group/Art Unit: \_\_\_\_\_

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

#### 18. CORRESPONDENCE ADDRESS

<input checked="" type="checkbox"/> Customer Number	<u>08791</u>		<input type="checkbox"/> or <input type="checkbox"/> Correspondence address below
Name	Blakely, Sokoloff, Taylor & Zafman LLP		
Address	5285 S.W. Meadows Road, Suite 101		
City	Lake Oswego	State	Oregon
Country	Telephone	Zip Code	97035
Name (Print/Type)	Gregory D. Caldwell	Registration No. (Attorney/Agent)	39,926
Signature			

<b>DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION (37 CFR 1.63)</b>		<b>Attorney Docket Number</b> 42P18002
<input checked="" type="checkbox"/> Declaration Submitted with Initial Filing		<b>First Named Inventor</b> Benjamin T. Metzler
		<b>COMPLETE IF KNOWN</b>
		<b>Application Number</b>
		<b>Filing Date</b>
		<b>Art Unit</b>
		<b>Examiner Name</b>

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below, next to my name.

I believe I am the original and first inventor (if only one name listed below) or an original and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

System and Method for Measuring Per Node Packet Loss in a Wireless Network
--

*(Title of the Invention)*

the specification of which

is attached hereto.

OR

was filed on (if applicable):

or \_\_\_\_\_ as United States Application Number \_\_\_\_\_  
PCT International Application Number \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable)

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claim(s), as amended by any amendment specifically referred to above.

I do not know and do not believe that the claimed invention was ever known or used in the United States of America before my invention thereof, or patented or described in any printed publication in any country before my invention thereof or more than one year prior to this application. I do not know and do not believe that the claimed invention was in public use or on sale in the United States of America more than one year prior to this application, nor do I know or believe that the invention has been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months (for a utility patent application) or six months (for a design patent application) prior to this application.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, or inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s):

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?
			<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/>	<input type="checkbox"/> Yes <input type="checkbox"/> No

I hereby appoint the persons listed on Appendix A hereto (which is incorporated by reference and a part of this document) as my respective patent attorneys and patent agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the U.S. Patent and Trademark Office connected herewith.

Direct all correspondence to:  Customer Number **08791** or  Correspondence address below

Name \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

Country \_\_\_\_\_

Telephone (503) 684-6200

Fax (503) 684-3245

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR:  A petition has been filed for this undersigned inventor

Full Name:

**Benjamin T. Metzler**

(First, Middle [if any], Family Name (or Surname), and Suffix [if any])

Inventor's Signature

Date

**10-20-2003**

Residence

Beaverton, Oregon USA

Citizenship

USA

(Country)

Mailing Address

12205 SW Fairfield Street

Beaverton, Oregon 97005 USA

## Appendix A

I hereby appoint with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith, BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP, a firm including: Ramin Aghevi, Reg. No. 43,462; William E. Alford, Reg. No. 37,764; Farzad E. Amini, Reg. No. 42,261; W. Thomas Babbitt, Reg. No. 39,591; Jordan M. Becker, Reg. No. 39,602; Michael A. Bernadicou, Reg. No. 35,934; Roger W. Blakely, Jr., Reg. No. 25,831; R. Alan Burnett, Reg. No. 46,149; Gregory D. Caldwell, Reg. No. 39,926; Cory G. Claassen, Reg. No. 50,296; Thomas M. Coester, Reg. No. 39,637; Mimi D. Dao, Reg. No. 45,628; Stephen M. De Klerk, Reg. No. 46,503; Daniel M. De Vos, Reg. No. 37,813; Sanjeet Dutta, Reg. No. 46,145; Tarek N. Fahmi, Reg. No. 41,402; Thomas S. Ferrill, Reg. No. 42,532; George L. Fountain, Reg. No. 36,374; Adam Furst, Reg. No. 51,710; Angelo J. Gaz, Reg. No. 45,907; Andre M. Gibbs, Reg. No. 47,593; James Y. Go, Reg. No. 40,621; Jason R. Graff, Reg. No. 54,134; Jeffery Scott Heileson, Reg. No. 46,765; James A. Henry, Reg. No. 41,064; Willmore F. Holbrow III, Reg. No. 41,845; Sheryl Sue Holloway, Reg. No. 37,850; George W. Hoover II, Reg. No. 32,992; Eric S. Hyman, Reg. No. 30,139; Aslam A. Jaffery, Reg. No. 51,841; Walter T. Kim, Reg. No. 42,731; Eric T. King, Reg. No. 44,188; Steven Laut, Reg. No. 47,736; Suk S. Lee, Reg. No. 47,745; Gordon R. Lindeen III, Reg. No. 33,192; Jan Carol Little, Reg. No. 41,181; Joseph Lutz, Reg. No. 43,765; Michael J. Mallie, Reg. No. 36,591; Andre L. Marais, Reg. No. 48,095; Raul D. Martinez, Reg. No. 46,904; Paul A. Mendonsa, Reg. No. 42,879; Jonathan S. Miller, Reg. No. 48,534; Heather M. Molleur, Reg. No. 50,432; Richard A. Nakashima, Reg. No. 42,023; Thinh V. Nguyen, Reg. No. 42,034; Robert B. O'Rourke, Reg. No. 46,972; Daniel E. Ovanezian, Reg. No. 41,236; Philip A. Pedigo, Reg. No. 52,107; Marina G. Portnova, Reg. No. 45,750; Joseph A. Pugh, Reg. No. 52,137; James H. Salter, Reg. No. 35,668; William W. Schaaf, Reg. No. 39,018; James C. Scheffler, Reg. No. 31,195; Saina S. Shamilov, Reg. No. 48,268; Kevin G. Shao, Reg. No. 45,095; Stanley W. Sokoloff, Reg. No. 25,128; Judith A. Szepesi, Reg. No. 39,393; Edwin H. Taylor, Reg. No. 25,129; Lisa Tom, Reg. No. 52,291; John F. Travis, Reg. No. 43,203; Kerry D. Tweet, Reg. No. 45,959; Mark C. Van Ness, Reg. No. 39,865; Thomas A. Van Zandt, Reg. No. 43,219; Mark R. Vatuone, Reg. No. 53,719; Lester J. Vincent, Reg. No. 31,460; John P. Ward, Reg. No. 40,216; Mark L. Watson, Reg. No. 46,322; Thomas C. Webster, Reg. No. 46,154; Chui-Kiu Teresa Wong, Reg. No. 48,042; and Norman Zafman, Reg. No. 26,250, my patent attorneys, and Brent Vecchia, Reg. No. 48,011 and Lehua Wang, Reg. No. 48,023, my patent agents, with offices located at 12400 Wilshire Boulevard, 7th Floor, Los Angeles, California 90025, telephone (310) 207-3800; and James R. Thein, Reg. No. 31,710, my patent attorney. I also appoint Alan K. Aldous, Reg. No. 31,905; Rob D. Anderson, Reg. No. 33,826; Jay P. Beale, Reg. No. 50,901; Shireen I. Bacon, Reg. No. 40,494; R. Edward Brake, Reg. No. 37,784; Ben Burge, Reg. No. 42,372; Robert H. Chang, Reg. No. 48,765; George Chen, Reg. No. 50,807; Glen B. Choi, Reg. No. 43,545; Kenneth Cool, Reg. No. 40,570; Ted A. Crawford, Reg. No. 50,610; Robert A. Diehl, Reg. No. 40,992; Jeffrey S. Draeger, Reg. No. 41,000; Cynthia Thomas Faatz, Reg. No. 39,973; Christopher Gagne, Reg. No. 36,142; Sharmini N. Green, Reg. No. 41,410; Robert Greenberg, Reg. No. 44,133; Bradley Greenwald, Reg. No. 34,341; Jeffrey B. Huter, Reg. No. 41,086; Seth Z. Kalson, Reg. No. 40,670; Peter Lam, Reg. No. 44,855; Issac Lin, Reg. No. 50,672; David C. Lundmark, Reg. No. 42,815; Anthony Martinez, Reg. No. 44,223; Larry Mennemeier, Reg. No. 51,003; Paul Nagy, Reg. No. 37,896; Michael J. Neshevatal, Reg. No. 47,819; Dennis A. Nicholls, Reg. No. 42,036; Kathy J. Ortiz, Reg. No. 54,351; Lanny Parker, Reg. No. 44,281; Michael D. Plimier, Reg. No. 43,004; Michael Proksch, Reg. No. 43,021; Kevin A. Reif, Reg. No. 36,381; Crystal D. Sayles, Reg. No. 44,318; Russell C. Scott, Reg. No. 43,103; Justin B. Scout, Reg. No. 54,431; Kenneth M. Seddon, Reg. No. 43,105; Mark Seeley, Reg. No. 32,299; Ami P. Shah, Reg. No. 42,143; David Simon, Reg. No. 32,756; Steven P. Skabrat, Reg. No. 36,279; Howard A. Skaist, Reg. No. 36,008; Paul E. Steiner, Reg. No. 41,326; Joni D. Stutman-Horn, Reg. No. 42,173; David Tran, Reg. No. 50,804; John F. Travis, Reg. No. 43,203; Robert G. Winkle, Reg. No. 37,474; Sharon Wong, Reg. No. 37,760; Steven D. Yates, Reg. No. 42,242; Calvin E. Wells, Reg. No. 43,256; Michael Willardson, Reg. No. 50,856 and Charles K. Young, Reg. No. 39,435; my patent attorneys and my patent agents, of INTEL CORPORATION; with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected herewith.



# UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT C

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P. O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,045	11/17/2003	Benjamin T. Metzler	42P18002	4278
7590 02/08/2007 Blakely, Sokoloff, Taylor & Zafman LLP Suite 101 5285 S.W. Meadows Road Lake Oswego, OR 97035			EXAMINER	
			PHUONG, DAI	
			ART UNIT	PAPER NUMBER
			2617	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/08/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/716,045	METZLER, BENJAMIN T.
	Examiner Dai A. Phuong	Art Unit 2617

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 17 November 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-32 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 17 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of.  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_



## UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT *DX* 1/2

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
10/716,045	11/17/2003	Benjamin T. Metzler	42P18002	4278
7590		02/08/2007	EXAMINER	
Blakely, Sokoloff, Taylor & Zafman LLP			PHUONG, DAI	
Suite 101			ART UNIT	
5285 S W. Meadows Road			PAPER NUMBER	
Lake Oswego, OR 97035			2617	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
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**Office Action Summary**

Application No.	10/716,045	Applicant(s)	METZLER, BENJAMIN T.
Examiner	Dai A. Phuong	Art Unit	2617

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -

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- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

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 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

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 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-32 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
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**Application Papers**

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 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____	6) <input type="checkbox"/> Other: _____



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT E 112

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: 700 LEAVENS BLDG., 1450  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,045	11/17/2003	Benjamin T. Metzler	42P18002	4278
7590	10/09/2007		EXAMINER	
Blakely, Sokoloff, Taylor & Zafman LLP Suite 101 5285 S.W. Meadows Road Lake Oswego, OR 97035			PHUONG, DAI	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			10/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Notice of Abandonment</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/716,045	METZLER, BENJAMIN T.
	Examiner Dai A. Phuong	Art Unit 2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1.  Applicant's failure to timely file a proper reply to the Office letter mailed on 08 February 2007.  
 (a)  A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.  
 (b)  A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
 (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).  
 (c)  A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).  
 (d)  No reply has been received.
2.  Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).  
 (a)  The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).  
 (b)  The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
 The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.  
 (c)  The issue fee and publication fee, if applicable, has not been received.
3.  Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).  
 (a)  Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.  
 (b)  No corrected drawings have been received.
4.  The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5.  The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6.  The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7.  The reason(s) below:

The examiner called applicant's attorney regarding the status of the present application. But there is no response from the Applicant.

  
 DUC M. NGUYEN  
 SUPERVISORY PRIMARY EXAMINER  
 TECHNOLOGY CENTER 2600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term



## UNITED STATES PATENT AND TRADEMARK OFFICE

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	EXAMINER
	PHUONG, DAI

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